

KENTUCKY

Specific requirement to report sexual assault? Only for cases where the perpetrator is the victim's spouse.

Requirement to report non-accidental or intentional injuries? No.

Requirement to report injuries caused by criminal conduct? No.

Additional statutes that may impact competent adult victims of sexual assault? No.

STATUTES THAT MANDATE RAPE REPORTING

KRS § 209A.020. Definitions for chapter

As used in this chapter, unless the context otherwise requires:

- (1) "Secretary" means the secretary of the Cabinet for Health and Family Services;
- (2) "Cabinet" means the Cabinet for Health and Family Services;
- (3) "Department" means the Department for Community Based Services of the Cabinet for Health and Family Services;
- (4) "Adult" means a person without regard to age who is the victim of abuse or neglect inflicted by a spouse;
- (5) "Protective services" means agency services undertaken with or on behalf of an adult in need of protective services who is being abused or neglected. These services may include but are not limited to conducting investigations of complaints of possible abuse or neglect to ascertain whether or not the situation and condition of the adult in need of protective services warrants further action, including action under KRS Chapter 209, and social services aimed at preventing and remedying abuse and neglect;
- (6) "Abuse" means the infliction of injury, unreasonable confinement, intimidation, or punishment resulting in physical harm or pain, including mental injury;
- (7) "Investigation" shall include, but is not limited to, a personal interview with the individual reported to be abused or neglected. When abuse or neglect is allegedly the cause of death, a coroner's or doctor's report shall be examined as part of the investigation;
- (8) "Records" means the medical or mental health records of the adult that are in the possession of any individual, hospital, firm or corporation, or other facility if necessary to complete the investigation mandated in KRS 209.030(5);

(9) "Neglect" means a situation in which a person deprives his spouse of reasonable services to maintain health and welfare; and

(10) "Authorized agency" means:

- (a) The Cabinet for Health and Family Services;
- (b) A local law enforcement agency or the Kentucky State Police; or
- (c) The office of a Commonwealth's or county attorney.

HISTORY: Created 2005 Ky. Acts ch. 132, sec. 21, effective June 20, 2005.

KRS § 209A.030. Administrative regulations -- Reports of abuse or neglect -- Cabinet actions -- penalty for failure to report abuse or neglect.

- (1) The secretary may promulgate administrative regulations in accordance with KRS Chapter 13A to effect the purposes of this chapter. The secretary may offer or cause to be offered protective services toward safeguarding the welfare of an adult who has experienced abuse or neglect inflicted or caused by a spouse. While the cabinet shall continue to have primary responsibility for investigation and the provision of protective services under this chapter, nothing in this chapter shall restrict the powers of another authorized agency to act under its statutory authority.
- (2) Any person, including, but not limited to, physician, law enforcement officer, nurse, social worker, cabinet personnel, coroner, medical examiner, mental health professional, alternate care facility employee, or caretaker, having reasonable cause to suspect that an adult has suffered abuse or neglect, shall report or cause reports to be made in accordance with the provisions of this chapter. Death of the adult does not relieve one of the responsibility for reporting the circumstances surrounding the death.
- (3) An oral or written report shall be made immediately to the cabinet upon knowledge of suspected abuse or neglect.
- (4) Any person making such a report shall provide the following information, if known:
 - a. The name and address of the adult;
 - b. The age of the adult;
 - c. The nature and extent of the abuse, neglect, or exploitation, including any evidence of previous abuse or neglect;
 - d. The identity of the perpetrator, if known;
 - e. The identity of the complainant, if possible;

- f. Any other information that the person believes might be helpful in establishing the cause of abuse or neglect.
- (5) Upon receipt of the report, the cabinet shall take the following action:
 - a. Notify the appropriate law enforcement agency, if indicated;
 - b. Initiate an investigation of the complaint; and
 - c. Make a written report of the initial findings together with a recommendation for further action, if indicated.
- (6) Any representative of the cabinet may enter any health facility or health service licensed by the cabinet at any reasonable time to carry out the cabinet's responsibilities under this chapter.
- (7) Any representative of the cabinet actively involved in the conduct of an abuse or neglect investigation under subsection (5) of this chapter shall also be allowed access to the mental and physical health records of the adult which are in the possession of any individual, hospital, or other facility if necessary to complete the investigation mandated by this section.
- (8) Any representative of the cabinet may with consent of the adult enter any private premises where any adult alleged to be abused or neglected is found in order to investigate the need for protective services for the purpose of carrying out the provisions of this chapter.
- (9) If a determination has been made that protective services are necessary when indicated by the investigation, the cabinet shall provide such services within budgetary limitations, except in such cases where an adult chooses to refuse such services.
- (10) In the event the adult elects to accept the protective services to be provided by the cabinet, the caretaker shall not interfere with the cabinet when rendering such services.
- (11) Anyone knowingly or wantonly violating the provisions of subsection (2) of this section shall be guilty of a Class B misdemeanor and penalized in accordance with KRS 532.090. Each violation shall constitute a separate offense.

HISTORY: Created 2005 Ky. Acts ch. 132, sec. 22, effective June 20, 2005.

STATUTES ADDRESSING PAYMENT FOR EXAMINATIONS

KRS § 216B.400 Emergency care -- Examination services for victims of sexual offenses -- Examination expenses paid by Crime Victims' Compensation Board

(1) Where a person has been determined to be in need of emergency care by any person with admitting authority, no such person shall be denied admission by reason only of his inability to pay for services to be rendered by the hospital.

(2) Every hospital of this state which offers emergency services shall provide that a physician or a sexual assault nurse examiner, who shall be a registered nurse licensed in the Commonwealth and credentialed by the Kentucky Board of Nursing as provided under KRS 314.142, is available on call twenty-four (24) hours each day for the examinations of persons reported to any law enforcement agency to be victims of sexual offenses as defined by KRS 510.010 to 510.140, 530.020, 530.064, and 531.310.

(3) An examination provided in accordance with this section of a victim of a sexual offense may be performed in a sexual assault examination facility as defined in KRS 216B.015. An examination under this section shall apply only to an examination of a victim.

(4) The physician or sexual assault nurse examiner, acting under a statewide medical protocol which shall be developed by the chief medical examiner, and promulgated by the secretary of justice pursuant to KRS Chapter 13A shall, upon the request of any peace officer or prosecuting attorney, and with the consent of the reported victim, or upon the request of the reported victim, examine such person for the purpose of gathering physical evidence. This examination shall include but not be limited to:

(a) Basic treatment and evidence gathering services; and

(b) Laboratory tests, as appropriate.

(5) Each reported victim shall be informed of available services for treatment of venereal disease, pregnancy, and other medical and psychiatric problems. Pregnancy counseling shall not include abortion counseling or referral information.

(6) Each reported victim shall be informed of available crisis intervention or other mental health services provided by regional rape crisis centers providing services to victims of sexual assault.

(7) Notwithstanding any other provision of law, a minor may consent to examination under this section. This consent is not subject to disaffirmance because of minority, and consent of the parents or guardians of the minor is not required for the examination.

(8) (a) The examinations provided in accordance with this section shall be paid for by the Crime Victims' Compensation Board at a rate to be determined by the administrative regulation promulgated by the board after consultation with the Sexual Assault Response Team Advisory Committee as defined in KRS 403.707.

(b) Upon receipt of a completed original claim form supplied by the board and itemized billing for a forensic sexual assault examination, the board shall reimburse the hospital or sexual assault examination facility, and the physician or sexual assault nurse examiner as provided in administrative regulations promulgated by the board pursuant to KRS Chapter 13A. Reimbursement shall be made to an out-of-state nurse who is credentialed in the other state to provide sexual assault examinations, an out-of-state hospital, or an out-of-state physician if the sexual assault occurred in Kentucky.

(c) Independent investigation by the Crime Victims' Compensation Board shall not be required for payment of claims under this section; however, the board may require additional documentation or proof that the forensic medical examination was performed.

(9) No charge shall be made to the victim for sexual assault examinations by the hospital, the sexual assault examination facility, the physician, the sexual assault nurse examiner, the victim's insurance carrier, or the Commonwealth.

HISTORY: Enact. Acts 1974, ch. 352, § 1(1); 1978, ch. 368, § 1, effective June 17, 1978; 1984, ch. 175, § 1, effective July 13, 1984; 1990, ch. 274, § 1, effective July 13, 1990; 1996, ch. 260, § 1, effective July 15, 1996; 2000, ch. 142, § 6, effective July 14, 2000; 2002, ch. 20, § 1, effective July 15, 2002; 2004, ch. 73, § 2, effective April 6, 2004.

107 KAR 2:010. Payment schedule for medical examination of reported victims of sexual offenses.

Section 1. The reimbursement for a physician, sexual assault nurse examiner, hospital, or sexual assault examination facility for performing a sexual assault examination shall be the actual amount billed, not to exceed the following limits:

- (1) A physician or sexual assault nurse examiner - \$200.
- (2) A hospital or sexual assault examination facility for use of an emergency or examination room - \$250.
- (3) A hospital, sexual assault examination facility, or laboratory to perform diagnostic laboratory testing - \$100.
- (4) A hospital or sexual assault examination facility for medications and pharmaceuticals prescribed as a result of the examination and as part of basic treatment - \$100.

107 KY ADC 2:010